

Department of Legislative Services
Maryland General Assembly
2025 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 770 (Senator Gile)
Education, Energy, and the Environment

**Applicants for Positions Involving Direct Contact With Minors - Required
Information, Review Process, and Reporting - Alterations**

This bill requires child care centers and “youth-serving organizations” to follow certain procedures when hiring applicants for positions involving direct contact with minors. The bill generally incorporates these requirements within current statutory provisions that govern hiring procedures for other specified positions involving direct contact with minors; however, the bill also expands these provisions to apply to “boundary-violating behavior.” As a result, additional information must be submitted by applicants for a position involving direct contact with minors (and considered by prospective employers, pursuant to hiring procedures under current law). The bill also requires a local board of education, nonpublic school, or contracting agency (in addition to a child care center or youth-serving organization) to request a child protective services background clearance before hiring an applicant. The bill also establishes certain reporting requirements. **The bill takes effect July 1, 2025.**

Fiscal Summary

State Effect: The bill has potentially significant operational and fiscal impacts on State agencies, as discussed below, including known general fund expenditures of \$117,300 in FY 2026 and at least \$134,900 annually thereafter for the Maryland State Department of Education (MSDE).

Local Effect: The bill has potentially significant operational and fiscal impacts on local governments, as discussed below. **This bill may impose a mandate on a unit of local government.**

Small Business Effect: Meaningful.

Analysis

Bill Summary: “Boundary-violating behavior” means an adult behaving in a manner that (1) compromises the safety and well-being of a minor; (2) is exploitative or harmful to a minor; or (3) is otherwise inappropriate, including unwanted physical contact, emotional manipulation or abuse, or sharing inappropriate information.

“Youth-serving organization” means an organization, an institution, an agency, a government program, a community group, or any other entity that is responsible for the care, supervision, guidance, education, development, or training of minors, including after school programs, mentor programs, summer camps, and recreational sports leagues and teams.

A local board, nonpublic school, child care center, youth-serving organization, or contracting agency must require an applicant for a position involving direct contact with minors to submit a child protective services background clearance form, which the applicant has notarized and submits electronically through the Department of Human Services’ (DHS) myDHR web portal. This requirement is in addition to other specified information required under current law, as noted below.

Before hiring the applicant, a local board, nonpublic school, child care center, youth-serving organization, or contracting agency must request a child protective services background clearance from DHS to determine if the applicant has been identified as responsible for the abuse or neglect of a child in any record maintained by DHS, any local department of social services, or child protective services.

By September 1, 2025, and each year thereafter, each local board must report to MSDE on (1) the child sexual abuse prevention instruction and training program required under current law; (2) the policies and procedures for screening applicants for positions involving direct contact with minors; and (3) the employee code of conduct for the county board and each nonpublic school and contracting agency in the county. By December 1, 2025, and each year thereafter, MSDE must compile and report this information to the General Assembly.

Current Law:

Child Sexual Abuse Prevention Instruction and Training

A local board of education or a nonpublic school that receives State funds must require each employee to receive instruction with specified elements annually on the prevention, identification, and reporting of child sexual abuse. In addition, each local board of education must (1) establish and implement policies that support the prevention of child

sexual abuse through ongoing training of staff that include specified elements and (2) develop employee codes of conduct that address appropriate contact between staff and students.

Hiring Requirements and Procedures (Applicable to Local Boards, Nonpublic Schools, or Contracting Agencies)

“Direct contact with minors” is the care, supervision, guidance, or control of, or routine interaction with, a minor.

Local boards, nonpublic schools, and a contracting agency (an entity that contracts with a local board or nonpublic school to provide a service to a school or the students of a school) must require an applicant for a position involving direct contact with minors to submit contact information: (1) for the current employer; (2) for all former school employers, including employers for which the applicant was an emergent employee; and (3) for all former employers of the applicant in which the applicant was employed in a position involving direct contact with minors within the previous 10 years. A written authorization that consents to the release of records relating to child sexual abuse or sexual misconduct must also be submitted.

An application must also provide a written statement of whether the applicant (1) has been the subject of a child sexual abuse or sexual misconduct investigation by specified entities, unless the investigation resulted in specified findings; (2) has ever been disciplined, discharged, nonrenewed, or asked to resign from employment, or has ever resigned from or otherwise separated from employment while such allegations were pending, under investigation, or due to an adjudication or findings of such actions; or (3) has ever had a license, professional license, or certificate suspended, surrendered, or revoked in connection with child sexual abuse or sexual misconduct allegations.

Before hiring an applicant, a local board, nonpublic school, or contracting agency must conduct a review of the employment history of the applicant by contacting the employers listed by the applicant and requesting specified information, including answers to the questions regarding the circumstances specified above. A local board, nonpublic school, or contracting agency must also request a report from MSDE regarding the applicant’s eligibility for employment or certification status to determine whether the applicant (1) holds a valid and active certification appropriate for the position and is otherwise eligible for employment and (2) has been the subject of professional discipline related to child sexual abuse or sexual misconduct.

An employer must, no later than 20 days after receiving a request for information, send to the local board, nonpublic school, or contracting agency the information requested on the form prescribed by MSDE. If the information includes an affirmative response to the child

sexual abuse or sexual misconduct questions and the entity makes a determination to further consider the applicant for employment, it must request that the former employer provide additional information, including all records related to child sexual abuse or misconduct. An employer receiving such a request must provide the additional information within 60 days to (1) the requesting local board, nonpublic school, or contracting agency and (2) the applicant who is under consideration for employment.

A local board or nonpublic school may hire an applicant as an emergent employee only if (1) the applicant has provided all the information and supporting documentation required under applicable statutory provisions; (2) an employer has no knowledge of information regarding the applicant that would disqualify the applicant from employment; (3) the applicant swears or affirms that the applicant is not disqualified from employment; and (4) the applicant is not authorized to work alone with minors unless the applicant works in the immediate vicinity of a permanent employee or, if the applicant is a school vehicle driver, is subject to audio and video monitoring and recording, which is promptly reviewed by school administrators.

At any time within 60 days after hiring an emergent employee, the local board or nonpublic school may rescind the offer of employment or complete the emergent employee's hiring process in accordance with statutory provisions, with any executed contract reflecting the first day worked as an emergent employee. A local board's decision to dismiss the employee may be appealed, as specified.

A local board or nonpublic school may use an employment history review completed as specified by a current or former employer if the employer is a local board or nonpublic school and the applicant (1) swears or affirms that the completed employment history review includes all prior employment required to be reported and (2) provides information about any employment subsequent to the previous employment history review by the current or former local board or school.

Likewise, a contracting agency may use an employment history review completed as specified by a current or former employer if the employer is a contracting agency and the applicant (1) swears or affirms that the completed employment history review includes all prior employment required to be reported and (2) provides information about any employment subsequent to the previous employment history review by the contracting agency.

For substitute employees, the employment history review must be done before the employee's initial hiring or placement on the approved substitute employee list of the local board, nonpublic school, or contracting agency. The review remains valid as long as the substitute employee continues to be employed by the same local board or remains on the approved substitute employee list of the nonpublic school or contracting agency. A

substitute employee seeking to be added to the substitute employee list of another local board, nonpublic school, or contracting agency must undergo a new employment history review. Any other entity furnishing substitute staffing services to a school entity must comply with the applicable statutory provisions.

Information and Records – Requirements and Authorized Use

Information and records about an applicant received by a local board, nonpublic school, or contracting agency pursuant to the above provisions are not a public record for the purposes of the Maryland Public Information Act. An entity receiving such information and records may (1) use them for the purpose of evaluating the applicant's fitness to be hired or for continued employment and (2) report the information to other specified entities, including MSDE or child protective service agencies, as appropriate

Miscellaneous Provisions

A local board, nonpublic school, or contracting agency may not enter into any contract or agreement, including collective bargaining agreements and employment contracts, that have specified consequences, including having the effect of suppressing information relating to an investigation or disciplinary action in response to a report of suspected child sexual abuse or sexual misconduct by a current or former employee. A provision executed, amended, or entered into on or after July 1, 2019, is contrary to these prohibitions is void and unenforceable.

If there is a lapse or suspension in MSDE's use of a system or database to check the eligibility for employment or certification status of an applicant, MSDE must notify a local board, nonpublic school, or contracting agency within 48 hours of the lapse or decision to suspend the use of the system or database.

Immunity provisions are also specified in statute for individuals who provide information or records in good faith as specified.

Authorized Discipline and Civil Penalties

An applicant who provides false information or willfully fails to disclose material information as required must be subject to discipline up to and including termination or denial of employment and may be subject to professional discipline in accordance with MSDE regulations. The willful failure of an employer or former employer to respond to or provide the information and records requested may result in civil penalties or professional discipline, if appropriate. An employer or former employer may not be held liable for failure to respond to a request for information if (1) the laws of the state in which the employer or former employer is located prohibit the release of the information or records

requested or (2) the disclosure of the information and records requested is restricted by the terms of a contract entered into on or before June 30, 2019.

MSDE may initiate disciplinary action before a hearing officer in accordance with regulations against an applicant, an employee, a contracting agency, or a school administrator for willful violations. MSDE may adopt regulations establishing procedures relating to disciplinary proceedings and the assessment of penalties.

The above requirements may not be construed to (1) prevent a prospective employer from conducting further investigations of prospective employees, requesting applicants to provide additional background information, or requesting that an employer or a former employer provide more information; (2) relieve a local board, nonpublic school, contracting agency, or any other mandated reporter of its legal responsibility to report suspected incidents of child sexual abuse or sexual misconduct in accordance with State law or MSDE's reporting requirements; or (3) prohibit the right of the exclusive representative under a collective bargaining agreement to grieve and arbitrate the validity of an employee's termination or discipline for just cause or the causes set forth in statute.

State/Local Fiscal Effect: As the bill makes numerous changes to current statutory provisions governing child sexual abuse and sexual misconduct prevention for positions involving direct contact with minors, some State agencies and local governments are likely significantly affected.

For example, MSDE advises there are 6,700 licensed child care programs in Maryland, which consists of a total of 70,000 child care providers and associated parties who are assessed for suitability of employment in child care. While comprehensive background checks (including child abuse and neglect clearances) are already required for every child care provider and staff member associated with child care programs throughout the State, the bill adds additional elements to required background checks. To facilitate additional responsibilities anticipated under the bill, MSDE advises of the need for two administrative aides to fulfill requests for certification and disciplinary action history, review employer complaints, issue violation letters, and provide information to Maryland employers regarding the bill's requirements. Thus, MSDE expenditures increase by \$117,274 in fiscal 2026, which accounts for a 90-day start-up delay. The estimate includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses

| | |
|-----------------------------------------|------------------|
| Positions | 2.0 |
| Salaries and Fringe Benefits | \$102,536 |
| Operating Expenses | <u>14,738</u> |
| Total FY 2026 State Expenditures | \$117,274 |

Future year expenditures reflect full salaries with annual increases and employee turnover as well as annual increases in ongoing operating expenses.

Although a precise estimate is unavailable at this time, the bill also likely has a significant effect on DHS, which is anticipated to receive a significant increase in requests for background clearances once the bill takes effect.

The Department of Natural Resources advises that the Maryland Park Service (MPS) conducts several programs that meet the definition of a youth-serving organization under the bill. While MPS already requires background checks for contractual employees, identifying the positions throughout the agency that meet the statutory definition requiring this additional check – and the administrative undertaking of collecting and reviewing the information – will have an operational impact, and may result in extended hiring timelines.

Although no material fiscal impact is anticipated, the Department of Juvenile Services may experience operational effects, as it notes that (1) the bill increases the time required to recruit and hire staff and (2) the vagueness of the language regarding “boundary-violating behavior” results in the need for additional scrutiny of applications and related background information.

Several local governments also reported the bill has an operational and fiscal impact.

For example, Anne Arundel County advises the bill may have a significant fiscal impact on the local Department of Recreation and Parks (DRP). Specifically, to conduct the required employment verifications and the additional DHS checks, the county advises that DRP may need two additional full-time staff and two part-time staff. DRP estimates that these (and other related) additional costs may total approximately \$1.0 million annually. Montgomery County anticipates expenditures of at least \$600,000 annually for additional staff within its recreation department, noting that it hires more than 2,500 seasonal employees annually, has over 200 career employees, and more than 600 contractors.

The Maryland Municipal League similarly notes of potential increased costs for municipal parks and recreation departments.

Baltimore City Public Schools advises that additional staffing is likely necessary to carry out the additional steps required as part of the pre-hiring process. Similarly, Baltimore County Public Schools advises the impact on the hiring process is likely significant.

Small Business Effect: Child care centers and youth-serving organizations (to the extent they are small businesses) must comply with the bill's hiring and reporting requirements, which may result in administrative burdens on smaller programs that have limited staff.

Additional Information

Recent Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: HB 1105 (Delegate Patterson, *et al.*) - Ways and Means.

Information Source(s): Anne Arundel, Baltimore, Charles, Dorchester, Garrett, and Montgomery counties; Maryland Municipal League; Maryland State Department of Education; Department of Juvenile Services; Department of Natural Resources; Department of Public Safety and Correctional Services; Department of State Police; Baltimore City Public Schools; Baltimore County Public Schools; Montgomery County Public Schools; Department of Legislative Services

Fiscal Note History: First Reader - February 21, 2025
js/jkb

Analysis by: Eric F. Pierce

Direct Inquiries to:
(410) 946-5510
(301) 970-5510